

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE  
AT KNOXVILLE

Assigned on Briefs September 22, 2009

**TERRINA D. BATES v. STATE OF TENNESSEE**

**Direct Appeal from the Circuit Court of McMinn County  
No. 07-230 Carroll Ross, Judge**

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**No. E2009-00781-CCA-R3-PC - Filed December 8, 2009**

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In June 2007, the Defendant pled guilty in McMinn County to theft between \$500 and \$1000 and possession of cocaine for resale, and she received an effective ten-year sentence on Community Corrections. In December 2007, the trial court found that the Defendant violated the terms of her Community Corrections sentence, and it ordered her to serve the remainder of her sentence in the Tennessee Department of Correction. In March 2009, the Defendant filed a notice of appeal and, in April 2009, she filed a motion for the appointment of counsel. Because the Defendant failed to file a timely notice of appeal, we dismiss the Defendant's appeal.

**Tenn. R. App. P. 3 Appeal as of Right; Appeal Dismissed**

ROBERT W. WEDEMEYER, J., delivered the opinion of the court, in which JAMES CURWOOD WITT, JR., and D. KELLY THOMAS, JR., JJ., joined.

Terrina D. Bates, Pro se, Benton, Tennessee.

Robert E. Cooper, Jr., Attorney General and Reporter; Michael E. Moore, Solicitor General; Melissa Roberge, Assistant Attorney General; Steven Bebb, District Attorney General, for the Appellee, State of Tennessee.

**OPINION**

**I. Procedural History**

The Defendant pled guilty in McMinn County to theft between \$500 and \$1000 and possession of cocaine for resale. On June 4, 2007, the trial court entered a judgment of conviction that imposed a total effective sentence of ten years to be served on Community Corrections. On December 19, 2007, the trial court determined that the Defendant had violated her Community Corrections sentence by changing her residence without consent, by stealing her mother's vehicle, and by committing shoplifting and theft over \$10,000. Accordingly, the trial court revoked her Community Corrections sentence and ordered her to serve the remainder of her sentence in the

Tennessee Department of Correction. On March 30, 2009, the Defendant filed a notice of appeal. The notice of appeal specifies a “6-11-07” judgment as the subject of the appeal.<sup>1</sup>

## II. Analysis

In her brief, the Defendant contends that she received the ineffective assistance of counsel and that her guilty pleas were the result of coercion. However, before we review the Defendant’s contentions, we must address the State’s contention that this Court should dismiss the Defendant’s appeal because it was untimely filed and the Defendant fails to explain how waiving her untimely filing is in the interest of justice. *See* Tenn. R. App. P. 4(a). The State also argues that the Defendant’s failures to support her argument with citation to authorities and to provide an adequate record for appellate review also require dismissal of the Defendant’s appeal.

In Tennessee, “the notice of appeal required by [Tennessee Appellate Procedure] Rule 3 shall be filed with and received by the clerk of the trial court within 30 days after the date of entry of the judgment appealed from.” Tenn. R. App. P. 4(a). Rule 4 states that “the filing of such document may be waived in the interest of justice.” *Id.* In addition to these timing requirements, “when a party seeks appellate review there is a duty to prepare a record which conveys a fair, accurate and complete account of what transpired with respect to the issues forming the basis of the appeal.” *State v. Ballard*, 855 S.W.2d 557, 560 (Tenn.1993). Further, an appellant must also support the contentions within his or her brief with argument, references to the record, and citation to authorities. Tenn. R. App. P. 24(b); Ct. Crim. App. R. 10(b).

In this case, the Defendant apparently seeks to appeal the trial court’s entry of judgments of conviction against her. The Defendant filed her notice of appeal approximately twenty-one months after the entry of her judgments of conviction. Her notice of appeal, therefore, was filed outside Rule 4(a)’s thirty-day time period.<sup>2</sup> Further, the Defendant did not provide the Court with any explanation for the delay and did not acknowledge the late filing. As such, we conclude the interests of justice do not require this Court to address the claims that the Defendant raises in her brief.

Further, as the State correctly notes, the Defendant failed to provide this court with an adequate record upon which to review her claims, and she does not support her argument with citations to authorities. As such, the Defendant has waived review of her claims. *See Ballard*, 855 S.W.2d at 560; Tenn. R. App. P. 24(b). Thus, she is not entitled to relief.

## III. Conclusion

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<sup>1</sup>The technical record of this case, although styled as a post-conviction appeal, contains neither a petition for post-conviction relief nor any reference thereto

<sup>2</sup>Even if the Defendant sought to appeal the order revoking Community Corrections, the notice of appeal was untimely.

After a thorough review of the record and the applicable law, we dismiss the Defendant's appeal.

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ROBERT W. WEDEMEYER, JUDGE